

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:)	
)	
<u>Roberts et al.</u>)	
)	
Serial No.: 10/038,874)	Group Art Unit: 2174
)	
Filed: December 31, 2001)	Examiner: Sy D Luu
)	
For: VISUALIZATION OF)	Board of Patent Appeals and
ENTERTAINMENT CONTENT)	Interferences
)	
)	
)	
)	
Confirmation No.: 6434)	

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on December 20, 2007, and pursuant to 37 C.F.R. § 41.37, Appellants present this appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-25 in the Final Office Action dated September 20, 2007 as clarified in Advisory Action dated January 3, 2008. The appealed claims are set forth in the attached Claims Appendix.

1. Real Party in Interest

This application is assigned to Koninklijke Philips Electronics N.V., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences that would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1-25 have been rejected in the Final Office Action. The final rejection of claims 1-25 is being appealed.

4. Status of Amendments

All amendments submitted by Appellants have been entered.

5. Summary of Claimed Subject Matter

The present invention, as recited in independent claim 1, is directed to a display system comprising a display controller (105) generating a plurality of graphical elements associated with and representative of each available item within a search pool. (See Specification, p. 11, ll. 5-7, p. 12, ll. 14-17; Fig. 1,2). The display system further includes a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria. (See Specification, p. 12, l. 23 - p. 13, l. 12, Fig. 2). The graphical element is updated in response to any change to the specified criteria or the search pool. (See Specification, p. 13, l. 20 – p. 14, l. 22, p. 15, l. 14 – p.15, l. 20, p. 17, ll. 5 – 12; Fig. 3).

The present invention, as recited in independent claim 6, is directed to a content reception system (100) comprising an input (102) receiving content and information items regarding the

content. (See, Specification, p. 8, ll. 10-17, p. 9, ll. 12-15, p., ll. 18-20; Fig. 1). The information items form a search pool. (See, Specification, p. 11, ll. 8 – 19). The content reception system (100) further comprises a display controller (105) receiving search results (201) from a search on the search pool and generating a plurality of graphical elements associated with and representative of each available item within a search pool. (See, Specification, p. 11 , ll. 20 – 24, p. 12, ll. 14 – 17; Fig. 2). The content reception system (100) further includes a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria. (See Specification, p. 12, l. 23 - p. 13, l. 12). The graphical element is automatically updated in response to any change to the specified criteria or the search pool. (See Specification, p. 13, l. 20 – p. 14, l. 22, p. 15, l. 14 – p.15, l. 20, p. 17, ll. 5 – 12; Fig. 3).

The present invention, as recited in independent claim 11, is directed to a content search and result display method comprising receiving content and information items regarding the content. (See, Specification, p. 8, ll. 10-17, p. 9, ll. 12-15, p., ll. 18-20; Fig. 1). The information items form a search pool. (See, Specification, p. 11, ll. 8 – 19). The method further comprises searching the search pool utilizing specified criteria to produce a relevance of each information item to the specified criteria. (See, Specification, p. 13, ll. 13-19). The method further comprises generating a plurality of graphical elements associated with and representative of each available item within a search pool. (See, Specification, p. 11, ll. 20 – 24, p. 12, ll. 14 – 17; Fig. 2). A graphical feature of each graphical element depends upon a relevance of the associated item to specified criteria. (See Specification, p. 12, l. 23 - p. 13, l. 12). The graphical element is automatically updated in response to any change to the specified criteria or the search pool. (See Specification, p. 13, l. 20 – p. 14, l. 22, p. 15, l. 14 – p.15, l. 20, p. 17, ll. 5 – 12; Fig. 3).

The present invention, as recited in independent claim 16, is directed to a computer-readable medium encoded with computer signals, the signals comprising a plurality of graphical elements representative of each available item within a search pool. (See, Specification, p. 9, l. 1, p. 12, ll. 14-17; Figs. 1,2). The signals further comprising a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria. (See Specification, p. 12, l. 23 - p. 13, l. 12). Each graphical element is automatically updated in response to any change to the specified criteria or the search pool. (See Specification, p. 13, l. 20 – p. 14, l. 22, p. 15, l. 14 – p.15, l. 20, p. 17, ll. 5 – 12; Fig. 3).

The present invention, as recited in independent claim 23, is directed to a content result and search method comprising: displaying a plurality of graphical elements associated with and representative of each available item within a search pool. (See, Specification, p. 11, ll. 20 – 24, p. 12, ll. 14 – 17; Fig. 2). A graphical feature of each graphical element depends upon a relevance of the associated item to specified criteria. (See Specification, p. 12, l. 23 - p. 13, l. 12). The method further comprising updating the displaying of each graphical element in response to any change to the specified criteria or the search pool. (See Specification, p. 13, l. 20 – p. 14, l. 22, p. 15, l. 14 – p.15, l. 20, p. 17, ll. 5 – 12; Fig. 3).

6. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1, 3-6, 8-11, 13-16 and 18-24 are unpatentable under 35 U.S.C. § 102(e) over U.S. Pat. No. 6,637,029 to Maissel et al. (hereinafter “Maissel”).

II. Whether claims 2, 7, 12 and 17 are unpatentable under 35 U.S.C. § 103(a) over Maissel in view of U.S. Pat. No. 5,982,369 to Sciammarella et al. (hereinafter “Sciammarella”).

III. Whether claim 25 is unpatentable under 35 U.S.C. § 103(a) over Maissel in view of U.S. Pat. No. 6,216,134 to Heckerman et al. (hereinafter “Heckerman”).

7. Argument

I. The Rejection of Claims 1, 3-6, 8-11, 13-16 and 18-24 under 35 U.S.C. § 102(e) as unpatentable over U.S. Pat. No. 6,637,029 to Maissel et al. (hereinafter “Maissel”) Should be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1, 3-6, 8-11, 13-16 and 18-24 under 35 U.S.C. § 102(e) as unpatentable over Maissel. (See 09/20/07 Office Action, p. 2).

Maissel is directed toward a system for providing customization of an electronic programming guide by an intelligent agent. (See Maissel col. 3, ll. 1-2). The system includes a television network for transmitting and receiving program schedule information, viewer preference profiles, and an intelligent customizing agent for programming schedule information, at least in part, on the viewer preference profile. (See Maissel Abstract). The system takes information from a viewer preference profile to customize the electronic programming guide. (See Maissel col. 3, ll. 3-8). After receiving the programming guide information, the system customizes the display that receives the programming information to the specific profile of the person using the system. (See Maissel col. 3, ll. 1-8; col. 6, ll. 19-25).

- B. The Cited Patents Do Not Disclose A Graphical Feature Of Each Graphical Element Depending Upon A Relevance Of The Associated Item To Specified Criteria, Wherein The Graphical Element Is Automatically Updated In Response To Any Change To The Specified Criteria Or The Search Pool, As Recited In Claim 6.

Claim 6¹ recites, “a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria, wherein the graphical element is automatically updated in response to any change to the specified criteria or the search pool.” The Examiner states that this recitation of claim 6 is disclosed in Maissel. (See 9/20/07 Office Action, p. 2). Appellants respectfully disagree.

The Examiner asserts that the graphical element from claim 6 is equivalent to the icon-based system in Maissel. However, while Maissel employs a graphical element, the icons of Maissel represent something different from the claimed graphical elements. In Maissel, the system uses an icon-based guide generator to display information to the user. The icons are static images used to represent information including parental controls, the subject matter of the television show, a specific period of time, or listings of a particular series of programs. (See Maissel col. 14, ll. 3-6; col. 20, ll. 48-50; col. 20, ll. 57-59; col. 20, ll. 65-66).

In contrast, the graphical element recited in claim 6 is not a static image based on the criteria above. Claim 6 recites, “a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria, wherein the graphical element is updated in response to any change to the specified search criteria or the search pool.” For example, a particular icon may be used to display all shows that exactly match the search criteria, while another may be used to display all shows that are similar to the search criteria. So while the system as described in Maissel will have the same icons associated with a show such as “Friends,” i.e. comedy, parental rating, show time, etc., claim 1 recites that the “a graphical feature of each graphical element depending upon a relevance of the associated item to specified

¹ Appellants note that the Examiner addressed claim 6 first in the 9/20/07 Office Action and, thus, the Appellants have addressed the claims in the same order as the Examiner.

criteria, wherein the graphical element is updated in response to any change in the specified criteria or the search pool.”

The Examiner asserts that this recitation is taught by Maissel because the “results of [a] search showing in fig. 9D would clearly be changed automatically upon any change made to a viewer preference profile and the display of the same fig. 9D being refreshed.” (See 09/20/07 Office Action p. 3). The Appellants do not dispute that different icons may be displayed on a screen in Maissel. However, there is no teaching or suggestion that any particular icon is updated based upon a search criteria. That is, in Maissel, different icons may be displayed at different times, but any one icon is the same every time it is displayed. The icon is not updated, as claimed.

In the Advisory Action, the Examiner states that “[t]he term ‘updated’ . . . is interpreted by the Examiner to involve changing or replacing the displayed graphical element with another graphical element to reflect a new search condition/criteria.” (See 1/3/2008 Advisory Action). However, the Examiner continues and states:

However, it is noted that the following is disclosed in the specification of the instant application at paragraph [0034]. ‘If a condition change occurs (step 304) such as an alteration to the underlying query or user profile or a change in the pool of information searched, updated results and relevance scores are obtained (step 305) and new graphical elements representing the results are generated (step 302).’

It appears that the graphical elements are newly generated graphical elements based on changes to the search criteria, rather than previously existed and defined elements such as Maissel’s icons.

(See 1/3/2008 Advisory Action).

Thus, it appears that the Examiner understands the recited term in light of the description in the specification, but the Examiner insists on using a much broader interpretation of the term contrary to all assertions by the Appellants. Appellants respectfully submit that claim

6 recites the limitation as clearly understood by the Examiner to overcome the teachings of Maissel.

Thus, it is respectfully submitted that Maissel does not teach or suggest “a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria, wherein the graphical element is automatically updated in response to any change to the specified criteria or the search pool,” as recited in claim 6. Accordingly, Appellants respectfully request that the Board overturn the Examiner’s rejection of claim 6. Because claims 7-10 depend from and, therefore, include all the limitations of claim 6, it is respectfully submitted that these claims are allowable for at least the reasons stated above.

Independent claim 1 recites “a graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria, wherein the graphical element is updated in response to any change to the specified criteria or search pool.” Thus, it is respectfully submitted that this claim is allowable for at least the same reasons stated above with reference to claim 6 and the Board should overturn the Examiner’s rejection of this claim. Because claims 2-5 and 22 depend from and, therefore, include all the limitations of claim 1, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 1.

Independent claim 11 recites “a graphical feature of each graphical element depends upon a relevance of the associated item to specified criteria, and wherein the graphical element is automatically updated in response to any change to the specified criteria or search pool.” Thus, it is respectfully submitted that this claim is allowable for at least the same reasons stated above with reference to claim 6 and the Board should overturn the Examiner’s rejection of this claim. Because claims 12-15 depend from and, therefore, include all the limitations of claim 11, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above.

Independent claim 16 recites “a graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria, wherein the graphical

element is automatically updated in response to any change to the specified criteria or search pool.” Thus, it is respectfully submitted that this claim is allowable for at least the same reasons stated above with reference to claim 6 and the Board should overturn the Examiner’s rejection of this claim. Because claims 18-21 depend from and, therefore, include all the limitations of claim 16, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 16.

Independent claim 23 recites “updating the display of each graphical element in response to any change to the specified criteria or search pool.” Thus, it is respectfully submitted that this claim is allowable for at least the same reasons stated above with reference to claim 6 and the Board should overturn the Examiner’s rejection of this claim. Because claims 24 and 15 depend from and, therefore, include all the limitations of claim 16, it is respectfully submitted that these claims are also allowable for at least the same reasons stated above with respect to claim 23.

II. The Rejection of Claims 2, 7, 12 and 17 under 35 U.S.C. § 103(a) as unpatentable over Maissel in view of U.S. Pat. No. 5,982,369 to Sciammarella et al. (hereinafter “Sciammarella”) Should be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 2, 7, 12 and 17 under 35 U.S.C. § 103(a) as unpatentable over Maissel in view of Sciammarella. (See 9/20/07 Office Action, p. 4).

Sciammarella describes a method for displaying, on a screen of a computer, images representing search results. (See Sciammarella Abstract). The user initiates a search in a database and the search results are responsive to said search. (See Sciammarella Abstract). Images corresponding to the search are varied in size corresponding to matches to the search criteria; the relevance of said image is indicated by its proximity to the keyword. (See Sciammarella Abstract). The display operation is equivalent to two simultaneous searches using Boolean operators. (See Sciammarella Abstract).

- B. The Cited Patents Do Not Disclose A Graphical Feature Of Each Graphical Element Depending Upon A Relevance Of The Associated Item To Specified Criteria, Wherein The Graphical Element Is Automatically Updated In Response To Any Change To The Specified Criteria Or The Search Pool, As Recited In Claim 6.

Appellants submit that Sciammarella does not cure the above-described deficiencies of Maissel with respect to claims 1, 6, 11 and 16. Because claim 2 depends from and, therefore, includes all the limitations of claims 1, it is respectfully submitted that this claim is allowable for at least the reasons stated above. Because claim 7 depends from and, therefore, includes all the limitations of claims 6, it is respectfully submitted that this claim is allowable for at least the reasons stated above. Because claim 12 depends from and, therefore, includes all the limitations of claims 11, it is respectfully submitted that this claim is allowable for at least the reasons stated above. Because claim 17 depends from and, therefore, includes all the limitations of claims 16, it is respectfully submitted that this claim is allowable for at least the reasons stated above.

III. The Rejection of Claim 25 under 35 U.S.C. § 103(a) as unpatentable over Maissel in view of U.S. Pat. No. 6,216,134 to Heckerman et al. (hereinafter “Heckerman”) Should be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claim 25 U.S.C. § 103(a) as unpatentable over Maissel in view of Heckerman. (See 9/20/07 Office Action, p. 5).

Heckerman describes a system for graphic visualization of the categories of a collection of records. (See Heckerman Abstract). The system optionally displays the category graph as a similarity graph or a hierarchical map. (See Heckerman Abstract).

- B. The Cited Patents Do Not Disclose Wherein A Graphical Feature Of Each Graphical Element Depends Upon A Relevance Of The Associated Item To Specified Criteria, And Updating The Displaying Of Each Graphical Element In Response To Any Change To The Specified Criteria Or The Search Pool, As Recited In Claim 23.

Appellants submit that Heckerman does not cure the above-described deficiencies of Maissel with respect to claim 23. Because claim 25 depends from and, therefore, includes all the limitations of claims 23, it is respectfully submitted that this claim is allowable for at least the reasons stated above.

8. Conclusion

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 102(e), and indicate that claims 1, 3-6, 8-11, 13-16 and 18-24 are allowable. In addition, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 103(a), and indicate that claims 2, 7, 12, 17 and 25 are allowable.

Respectfully submitted,

Date: May 27, 2008

By: /Edward W. Goodman/
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611

CLAIMS APPENDIX

1. (Previously Presented) A display system comprising:

a display controller generating a plurality of graphical elements associated with and representative of each available item within a search pool,

a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria,

wherein the graphical element is updated in response to any change to the specified criteria or the search pool.
2. (Original) The display system according to claim 1, wherein the graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria further comprises one of a size of the graphical element or a perceived proximity of the graphical element to a viewer.
3. (Original) The display system according to claim 1, wherein one or more graphical elements are representative of multiple items within the search pool and serving as a user control triggering expanded display of additional graphical elements each representative of a subset of the multiple items.
4. (Previously Presented) The display system according to claim 1, wherein the graphical element is updated whenever the specified criteria are changed by either adding, deleting or modifying a search query element or updating a user profile.
5. (Previously Presented) The display system according to claim 1, wherein the graphical element is updated whenever an item is added or deleted from the search pool.

6. (Previously Presented) A content reception system comprising:
 - an input receiving content and information items regarding the content, wherein the information items form a search pool; and
 - a display controller receiving search results from a search on the search pool and generating a plurality of graphical elements associated with and representative of each available item within a search pool,
 - a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria,
 - wherein the graphical element is automatically updated in response to any change to the specified criteria or the search pool.
7. (Original) The content reception system according to claim 6, wherein the graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria further comprises one of a size of the graphical element or a perceived proximity of the graphical element to a viewer.
8. (Original) The content reception system according to claim 6, wherein one or more graphical elements are representative of multiple items within the search pool and serving as a user control triggering expanded display of additional graphical elements each representative of a subset of the multiple items.
9. (Previously Presented) The content reception system according to claim 6, wherein the graphical element is automatically updated whenever the specified criteria are changed by either adding; deleting or modifying a search query element or updating a user profile.

10. (Previously Presented) The content reception system according to claim 6, wherein the graphical element is automatically updated whenever an item is added or deleted from the search pool.

11. (Previously Presented) A content search and result display method comprising:
receiving content and information items regarding the content, wherein the information items form a search pool; searching the search pool utilizing specified criteria to produce a relevance of each information item to the specified criteria; and

generating a plurality of graphical elements associated with and representative of each available item within a search pool,

wherein a graphical feature of each graphical element depends upon a relevance of the associated item to specified criteria, and

wherein the graphical element is automatically updated in response to any change to the specified criteria or the search pool.

12. (Original) The method according to claim 11, wherein the graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria further comprises one of a size of the graphical element or a perceived proximity of the graphical element to a viewer.

13. (Original) The method according to claim 11, wherein one or more graphical elements are representative of multiple items within the search pool and serving as a user control triggering expanded display of additional graphical elements each representative of a subset of the multiple items.

14. (Previously Presented) The method according to claim 11, wherein the graphical element is automatically updated whenever the specified criteria are changed by either adding, deleting or modifying a search query element or updating a user profile.

15. (Previously Presented) The method according to claim 11, wherein the graphical element is automatically updated whenever an item is added or deleted from the search pool.
16. (Previously Presented) A computer-readable medium encoded with computer signals, the signals comprising:
- a plurality of graphical elements representative of each available item within a search pool,
 - a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria,
 - wherein each graphical element is automatically updated in response to any change to the specified criteria or the search pool.
17. (Previously Presented) The computer-readable medium according to claim 16, wherein the graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria further comprises one of a size of the graphical element or a perceived proximity of the graphical element to a viewer.
18. (Previously Presented) The computer-readable medium according to claim 16, wherein one or more graphical elements are representative of multiple items within the search pool and serve as a user control triggering expanded display of additional graphical elements each representative of a subset of the multiple items.
19. (Previously Presented) The computer-readable medium according to claim 16, wherein each graphical element is automatically updated whenever the specified criteria are changed by either adding, deleting or modifying a search query element or updating a user profile.

20. (Previously Presented) The computer-readable medium according to claim 16, wherein each graphical element is automatically updated whenever an item is added or deleted from the search pool.

21. (Previously Presented) The computer-readable medium according to claim 16, wherein the medium is storage medium.

22. (Previously Presented) The display system according to claim 1, wherein the graphical feature is automatically updated without user intervention in response to any change to the specified criteria or the search pool.

23. (Previously Presented) A content result and search method comprising:

displaying a plurality of graphical elements associated with and representative of each available item within a search pool, wherein a graphical feature of each graphical element depends upon a relevance of the associated item to specified criteria, and

updating the displaying of each graphical element in response to any change to the specified criteria or the search pool.

24. (Previously Presented) A content result and search method according to claim 23, wherein each graphical element is automatically updated in response to any change to the specified criteria or the search pool.

25. (Previously Presented) A content and result search method according to claim 23, wherein the graphical element is updated and the updated graphical element is viewable automatically without user intervention when a change is made to the specified criteria or the search pool.

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings related thereto.